



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 13, 1993

Ms. Raenell Silcox  
Legal Services Division  
Texas Parks and Wildlife Department  
4200 Smith School Road  
Austin, Texas 78744

OR93-552

Dear Ms. Silcox:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code.<sup>1</sup> Your request was assigned ID# 20765.

The Texas Parks and Wildlife Department (the "department") has received a request for information regarding an ongoing department investigation. Specifically, the requestor seeks:

all names of complaintants [*sic*] and complaints lodged against [the requestor], as an individual, and the Texas Wildlife Rehabilitation Coalition Wildlife Animal Shelter including findings and final resolution of each if available.

You claim that sections 552.101 and 552.108 of the Open Records Act except the requested information from required public disclosure.

Section 552.108 excepts

(a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . .

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<sup>1</sup>We note that V.T.C.S. article 6252-17a was repealed by the 73d Legislature. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution . . . .

If an incident involving allegedly criminal conduct is still under active investigation or prosecution, any proper custodian of information that relates to the incident may invoke section 552.108. Open Records Decision Nos. 474 (1987) at 4-5; 372 (1983) at 4.

You state that the requestor "is currently being investigated by [the department's] Law Enforcement Division regarding possible violations of the Texas Parks and Wildlife Code." Because the requested information relates to an active investigation of allegedly criminal conduct, the department may withhold the requested information under section 552.108 of the Open Records Act. We need not, therefore, consider whether the department must withhold the information pursuant to section 552.101 of the Government Code.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Kimberly K. Oltrogge  
Assistant Attorney General  
Open Government Section

KKO/rho

Ref.: ID# 20765

cc: Ms. Rose Chaivre  
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Cypress, Texas 77429  
(w/o enclosures)